

Gulf of Mexico Energy Security Act (GOMESA)  
Funding Policies & Guidance  
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## Gulf of Mexico Energy Security Act (GOMESA) Funding Policies & Guidance

### Introduction

The General Land Office (GLO) oversees the administration and distribution of the Gulf of Mexico Energy Security Act (GOMESA) funds to selected projects as authorized under Public Law 109-432. GOMESA requires the Bureau of Ocean Energy Management (BOEM) to disburse a certain percentage of all qualified Outer Continental Shelf revenues, including bonus bids, rentals, and production royalty to four Gulf producing states (Alabama, Louisiana, Mississippi, Texas), their coastal political subdivisions and the Land & Water Conservation Fund for coastal restoration projects. The amount distributed to each state and political subdivision is based on the sections of lease tracts that open each year and the distance from those sections to the states and political subdivisions. Since GOMESA funding is dependent on oil prices and lease sales, it is unknown exactly how much funding each entity will receive each year. BOEM does a calculation of the previous year's OCS revenue for GOMESA funding and then deposits each state's share of the revenue into their treasuries the following April without prior notice or estimations of the deposit amounts.

For additional information regarding revenue sharing phases see: <https://www.boem.gov/Revenue-Sharing/>

### Authorized Uses

GOMESA funds may only be used for projects that satisfy one or more of the following statutorily authorized uses:

1. Projects and activities that are for coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.
2. Mitigation of damage to fish, wildlife, or natural resources.
3. Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.
4. Mitigation of the impact of Outer Continental Shelf activities through the funding of onshore infrastructure projects.
5. Planning assistance and the administrative costs of complying with GOMESA requirements.

### GLO GOMESA Program Goals & Objectives

The goal of GOMESA funding is to conserve, restore, enhance, and protect the diversity, quality, quantity, functions, and values of the state's coastal natural resources. A primary focus for the GLO will be to protect coastal natural resources while facilitating multiple human uses of coastal resources.

The GLO's priority for the expenditures of GOMESA funds include:

1. Restoring and enhancing coastal natural resources;
2. Providing hurricane protection for coastal public resources;
3. Improving water quality;
4. Enhancing the balance between the protection of coastal natural resources and public use of those resources;
5. Improving environmental management;
6. Mitigating coastal erosion and stabilizing shorelines;
7. Implementation of the Coastal Management Program and Coastal and Estuarine Land Conservation Program.

### GLO Administration of GOMESA Funds

To maximize utilization of GOMESA funds, the GLO will fund projects that meet the GOMESA authorized uses, Coastal Management Program (CMP), Coastal Erosion Planning and Response Act (CEPRA), or Natural Resource Damage Assessment (NRDA) goals and objectives, and GLO priorities identified in the Texas Coastal Resiliency Master Plan (TCRMP). Specifically, GOMESA funds will be used to facilitate the initiation of essential coastal projects that comply with the GOMESA authorized uses, such as planning, permitting, design and implementation of coastal projects.

GOMESA funds will be allocated through the CMP, CEPRA and NRDA funding programs. Applicants will not apply directly for GOMESA funds, but instead will apply through either the CMP or CEPRA program's solicitation mechanism. NRDA funding will be allocated by GLO to support projects selected for funding by the NRDA Trustees. If a project is determined to be eligible under a program's specific requirements, GOMESA funds may be used to fully fund a project or be administered as a supplement to CMP, CEPRA or NRDA monies. Applicants and/or projects must meet all the CMP, CEPRA, or NRDA program rules, policies, deadlines, and associated funding constraints to receive GOMESA funds.

GOMESA funds will be allocated to CMP projects as Projects of Special Merit (PSM). This includes both Tier 1 and non-Tier 1 TCRMP projects. GOMESA funds under the CMP can be used on public access projects that serve to protect and preserve coastal habitat such as dune walkovers and the construction of parking areas dedicated to public access. Structures and activities not directly related to preserving habitat or public access, such as piers, buildings, lighting, or other similar enhancements, are not eligible for funding. Information on the PSM selection process can be found in the CMP Grant Guidance document. The purpose of the CMP is to improve the management of the state's coastal resources and ensure the long-term ecological and economic productivity of the coast. The program is based on the Coastal Coordination Act in Texas Natural Resources Code, Chapter 33, and the CMP goals and policies in Title 31, Texas Administrative Code, Chapter 26. Under Texas Natural Resources Code, Section 33.204, the Commissioner of the GLO (Commissioner) may use public funds such as GOMESA to award grants to projects that further the goals and policies of the CMP. Eligible entities are listed in the CMP Grant Guidance document.

GOMESA funds will be allocated to CEPRA projects based on the outcome of the CEPRA review and scoring process, detailed in the CEPRA Funding Application Guidance document. The purpose of the CEPRA program is to implement coastal erosion response projects and studies to reduce the effects of and understand the processes associated with coastal erosion as it continues to threaten public beaches, coastal natural resource areas, coastal development, public infrastructure, and public property. Under Texas Natural Resources Code, Section 33.603, the GLO is authorized to undertake coastal erosion studies, demonstration projects, and response projects if the GLO receives legislative appropriations or other funding. If reasonable and appropriate, the GLO must work in conjunction with other state agencies, local governments, federal agencies including the United States Army Corps of Engineers, or other qualified project partners in undertaking those studies or projects.

GOMESA funds allocated to CEPRA will only be used to pay for construction contractor costs associated with TCRMP Tier I erosion response projects or to fund a study associated with a Tier 1 TCRMP project. All other project costs should be paid for by the CEPRA project partner or by the CEPRA program as per an applicable CEPRA Project Cooperation Agreement. **GOMESA funds allocated to CEPRA cannot be used on any aspect of a non-Tier 1 TCRMP project.**

GOMESA funds will be allocated to restoration projects selected through the NRDA process in accordance with the Oil Pollution Act (OPA), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Oil Spill Response and Response Act (OSPR), and other applicable laws. NRDA is a legal and technical process under state and federal laws that determines the type and amount of restoration needed to compensate the public for impacts to natural resources that occur because of an unauthorized release of hazardous substances or oil. The goal of the NRDA is to make the public whole by restoring injured natural resources and services and compensating the public for lost recreational use of those resources. GOMESA funds allocated by GLO to NRDA projects will be used to facilitate or enhance, restoration initiatives or cover higher than anticipated implementation costs for a project that was selected by state and federal Trustee Agencies.

GOMESA funds will be awarded to CMP, CEPRA and NRDA projects via the respective program's selection process and at the Commissioner's sole discretion to projects that meet GOMESA's authorized uses. In using GOMESA funds, the Commissioner will consider the following factors:

- Equitable distribution of funds along the Texas coast,
- Advancement of projects that have state-wide or regional benefits,
- Facilitate the implementation of large-scale projects, and
- Ensure compensation of the public for harm to coastal natural resources that occurred because of a hazardous substance release or oil spill.

GOMESA funds may be made available to the GLO for planning, administration and facilitation of priority projects as determined by the GLO. Where appropriate, GOMESA funds will be leveraged with other funding sources to enhance collaboration between the program areas and provide better opportunities to complete comprehensive, large-scale projects such as those identified in the TCRMP.

For guidance on applying for CMP grants and CEPRA funding, please see the GLO's grant projects funding web site: <http://www.glo.texas.gov/coast/grant-projects/funding/index.html>

### **Allocation of GOMESA Funds**

GOMESA funds will be allocated through the CMP, CEPRA and NRDA programs or by the selection and funding of projects that meet GOMESA requirements and GLO priorities.

The CEPRA program will receive approximately 55% of the GOMESA funds each distribution year and the CMP will receive approximately 25%. The remaining approximate 20% will be used for planning, administration and to facilitate the initiation and completion of other coastal projects or be leveraged with other funding sources such as: NRDA, National Fish and Wildlife Foundation (NFWF), Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act (RESTORE), Federal Emergency Management Agency (FEMA) and Department of Homeland Security (DHS). The goal of the approximate 20% of GOMESA funds is to enhance NRDA restoration initiatives, support projects with higher than anticipated implementation costs, enhance collaboration, and provide better opportunities to complete comprehensive, large-scale projects that comply with the GOMESA authorized uses.

Not more than 3% of the total amount received by the state can be used on planning assistance and administrative costs pertaining to distribution of GOMESA funds under any of these programs. GLO planning assistance and administrative costs may include expenses such as: personnel, supplies, equipment, services, and other expenses related to administering the program; grant monitoring activities, programmatic studies, planning, and auditing; and public or community relations activities.

### **Eligibility Requirements**

GOMESA funds are being funneled through the CMP, CEPRA, and NRDA programs. Applicants and/or projects must comply with GOMESA and the respective project requirements. See the CMP and CEPRA program guidance documents or the appropriate NRDA Consent Decree and restoration plan for specific eligibility requirements.

The CMP and CEPRA program guidance documents will cover requirements regarding the following:

1. Eligible Applicants or Projects
2. Project Location
3. Funding Categories
4. Application Processes and Deadlines
5. Funding Policies, Amounts, and Cost Sharing
6. Federal Consistency
7. Data Standards
8. Permitting
9. Project Evaluation and Selection Criteria
10. Program Specific Rules and Regulations
11. Contract Administration Requirements

### **Selection of Projects**

CMP and CEPRA applications will be evaluated and scored based on the respective program's project scoring criteria. Once applications are scored and projects are selected to potentially receive GOMESA funding, the respective program staff will evaluate the projects to determine if the projects meet at least one of the GOMESA authorized uses. Projects identified in the TCRMP will be given priority for GOMESA funding. All selected projects using GOMESA funds will be evaluated and approved by management.

Initial notification of potential receipt of GOMESA funding for a CMP PSM grant will be provided in August of the year in which an applicant applied. CMP PSMs are not guaranteed funding until a mutually agreed upon scope of work is established between the applicant and GLO staff and the GLO issues a formal funding notification letter which will be distributed by December 31<sup>st</sup> of the year in which the applicant applied. If a mutually agreed upon scope of work cannot be established by December 31<sup>st</sup>, the PSM invitation will be withdrawn.

See CMP and CEPRA Guidance for additional details on applying at the GLO's grant projects funding web site: <http://www.glo.texas.gov/coast/grant-projects/funding/index.html>.

NRDA projects using GOMESA funding will have been initially selected by state and federal Trustee Agencies for inclusion in a Restoration Plan for a specific NRDA case. Restoration Plans are developed by Trustees to protect and preserve coastal habitats to offset injuries due to releases of hazardous chemicals or oil spills. NRDA projects may require GOMESA funding when case settlement funds may not be sufficient to complete a project due to higher than anticipated implementation costs or present a unique opportunity to enhance the value of a NRDA project. GOMESA funds allocated through the NRDA Program will be prioritized for conservation of properties or restoration of habitats listed in the TCRMP Tier 1 list.

### **GOMESA Financial Requirements and Cost Limitations**

While GOMESA funds have an associated federal tax ID, there is no other associated federal nexus. The use of GOMESA funds must comply with the funding and financial reporting requirements, policies, and limitations of the program (i.e., CEPRA, CMP or NRDA) through which the monies were awarded.

The Commissioner will limit indirect costs charged when using GOMESA funds, whether funded through CEPRA, CMP, or directly from GOMESA, to a maximum of 15% of Modified Total Direct Costs (MTDC) as an allowable cost for reimbursement, if the recipient of GOMESA funds has a current indirect cost rate negotiated with a contracting federal agency. This maximum 15% indirect cost rate must be applied to MTDC as negotiated in the recipient's indirect cost rate agreement (NICRA). The recipient's subawards and subcontractors must also comply with the maximum 15% indirect cost rate limitations. The recipient may not charge "other operating costs" (i.e., administrative costs, equipment usage fees, computer usage fee, etc.) in addition to indirect costs, if such costs are already included in the calculation to determine the recipient's indirect cost rate. A copy of the NICRA must be submitted with the application.

The Commissioner will limit fringe benefit costs to the recipient's published rate not to exceed 35% of salaries and/or wages.

Match is not required on CMP or NRDA GOMESA funded projects. A \$5,000 match is required on all CEPRA GOMESA funded projects.

For projects funded through the CMP, reimbursement of tuition cost and salaries and/or wages earned by a student working directly on the project is allowed. For projects funded through CEPRA, reimbursement of tuition is entirely prohibited. Only an hourly rate for salary and overhead can be reimbursed.

Travel-related expenses to attend specific meetings, conferences or events funded through either CMP, CEPRA or NRDA must be included in the subrecipient/partner agreement. If not included in the original work plan, the subrecipient/partner must submit an acceptable justification and receive GLO project manager's written approval prior to the travel.

GOMESA funds should only be spent on travel necessary to complete the goals and deliverables delineated in the project work plan. Travel should occur within Texas. Funds may be used to travel to one (1) out-of-state conference, meeting, or workshop if the subrecipient/partner can provide proof that they will actively participate in the event (i.e., were invited to attend for a specific purpose, are presenting work or project results). Out-of-state travel is limited to the contiguous United States and must be strongly justified and approved by the GLO project manager.

### **Procurement Requirements**

As GOMESA funds are considered state funds, GOMESA fund recipients under CMP, CEPRA and NRDA programs must adhere to state procurement procedures and thresholds. All goods and services over \$10,000 must be formally bid. However, if the estimated cost of the goods or services is under \$25,000, an informal bidding process can be utilized.

CMP PSM funded with GOMESA must adhere to the Texas Grant Management Standards (TxGMS). TxGMS was developed under the authority of Government Code Ch. 783 to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and federal agencies and very closely follows the federal Uniform Guidance Management Standards in 2 CFR, Part

200. CEPRA or NRDA projects funded with GOMESA are not subject to TxGMS requirements or federal standards. All CMP PSMs are subject to financial or program-specific audit requirements per TxGMS.

### **Project Location**

Projects funded with GOMESA monies must occur within the coastal zone boundary (CZB). The CZB is set by statute and is based on the Coastal Facilities Designation Line established by OSPRA, with modifications to include wetlands that are landward of the line, generally within one mile of tidal rivers. This boundary encompasses all or portions of 18 coastal counties: Cameron, Willacy, Kenedy, Kleberg, Nueces, San Patricio, Aransas, Refugio, Calhoun, Victoria, Jackson, Matagorda, Brazoria, Galveston, Harris, Chambers, Jefferson, and Orange counties. The seaward boundary is the state's territorial limit which is approximately 10.3 miles seaward of the Gulf Shoreline in the Gulf of Mexico. The Texas CMP boundary is specifically described in 31 TAC §27.1.

CMP and CEPRA projects must occur on public or state-owned land only. GOMESA monies cannot be used on privately owned, federal land or land owned by a nonprofit organization unless there is a perpetual lease or conservation easement in place. Under CMP, leases or conservation easements must be held by a regional, local, or state governmental entity and cannot be privately or federally held. GOMESA funds can be used for NRDA conservation of lands if there is a conservation easement held by a third party and the NRDA Trustee Council has a third party right of enforcement.

### **Frequently Asked Questions:**

- 1. Can a recipient who is selected through the CMP selection process use GOMESA money to purchase equipment?**
  - Any equipment purchase must be directly related to an authorized GOMESA use.
  - Any equipment purchases must be preapproved by GLO in writing.
  - A cost vs. purchase analysis must be submitted with the equipment purchase request to justify why the item should be purchased instead of rented, contracted, or leased.
  - Equipment purchased prior to the approval of the project will not be eligible for reimbursement.
  - An entity purchasing equipment may retain title to the equipment purchased if the entity agrees the equipment will continue to be used for work that meets GOMESA authorized uses.
  - An entity may charge for the use of the equipment purchased using GOMESA funds if the money generated is directly used for repair and maintenance of the equipment. The entity cannot charge the GLO for future use of the equipment.
  
- 2. Do GOMESA projects require a formal environmental assessment/review prior to receipt of funding?**
  - As GOMESA funds are considered state funds with no federal oversight, a formal environmental assessment/review (i.e., National Environmental Protection Act) is not required to receive GOMESA funding. However, as NRDA, CMP or CEPRA project managers and subrecipients develop the project scope of work, additional supporting environmental documentation may be required before contact execution can proceed, or additional documentation may be written into the project work plan.
  
- 3. What are the appraisal requirements when completing a land acquisition project?**

- GOMESA funding may also be used to acquire fee simple or other interest in land. Subrecipients completing land acquisition will be required to acquire a property appraisal that complies with the Uniform Standards of Professional Appraisal Practice (USPAP). Compliance with USPAP is a requirement for all certified and licensed appraisers.

**4. What are the limits on the use of GOMESA funds?**

- Funds may only be used for authorized GOMESA uses.
- Funds must be spent in accordance with the project budget that is approved as part of the recipient agreement.
- Funding will be constrained by the actual amount received by Texas each year and subject to the administrative costs cap of the GOMESA program.
- Funds may be used as non-federal match.

**5. How will projects using GOMESA funds be monitored for timely completion?**

- GOMESA funded CMP projects must be completed within a three-year timeframe. If circumstances require, the recipient may be able to utilize an option to do a no cost time extension to add a maximum of two additional years. A request for such an extension must be submitted to the GLO in writing prior to expiration of the agreement and will not be effective until approved by the GLO.
- Depending on the size and scale of the project, timeframes for completion may vary. As a result, during the application stage, the project should be submitted with detailed timeframes for development, planning and completion, and if applicable, broken out into specified project phases. All timeframes must be included in the application and approved by GLO staff. During review of an application or after initial approval of a project, GLO staff may negotiate different terms and time frames for a project, as appropriate.
- The reporting requirements will be specified in the recipient agreement and forms will be available on the GLO's website.

**6. When will GOMESA funded projects start?**

- Projects are eligible to start as soon as the GLO contracting process with the recipient is complete. The start and end dates for GOMESA funded projects will be defined on a case-by-case basis for each project and may be incorporated into the contractual instrument between the recipient and the GLO. The start date for initiation of a project is sometimes based upon the GLO's issuance of a notice to proceed.

**5. Can projects occur outside of the coastal zone boundary?**

- No, all GOMESA projects must occur within the coastal zone boundary lines.